

R156. Commerce, Occupational and Professional Licensing.

R156-64. Deception Detection Examiners Licensing Act Rules.

R156-64-101. Title.

These rules are known as the "Deception Detection Examiners Licensing Act Rules".

R156-64-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 64, as used in Title 58, Chapters 1 and 64 or these rules:

(1) "Control question" means a nonrelevant test question used for comparison against a relevant test question in a deception detection examination.

(2) "Irrelevant question" means a question of neutral impact, which does not relate to a matter under inquiry, in a deception detection examination.

(3) "Irrelevant and relevant testing" means a deception detection examination which consists of relevant questions, interspersed with irrelevant questions, and does not include any type of control questions.

(4) "Qualified continuing professional education" means continuing education that meets the standards set forth in Section R156-64-304.

(5) "Relevant question" means a question which relates directly to a matter under inquiry in a deception detection examination.

(6) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 64, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-64-502.

R156-64-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 64.

R156-64-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-64-302a. Qualifications for Licensure - Application Requirements.

In accordance with Subsections 58-64-302(1)(c) and 58-64-302(2)(c), each applicant shall provide the following:

(1) a certification issued by the Bureau of Criminal Identification, Utah Department of Public Safety concerning the applicant's criminal history, except if the applicant is a peace officer as defined in Title 53, Chapter 6, in good standing;

(2) two fingerprint cards containing the fingerprints of the applicant; and

(3) a fee established in accordance with Section 63-38-3.2 equal to the cost of conducting a check of the records of the Federal Bureau of Investigation and the Bureau of Criminal Identification, Utah Department of Public Safety, regarding the applicant.

R156-64-302b. Qualifications for Licensure - Education Requirements.

(1) In accordance with Subsections 58-64-302(1)(f)(i) and 58-64-302(2)(f)(i) the bachelor's degree shall have been earned from a university or college program, that at the time the applicant graduated, was accredited through the U.S. Department of Education or one of the regional accrediting association of schools and colleges.

(2) In accordance with Subsections 58-64-302(1)(f)(ii) and 58-64-302(2)(f)(ii), the 8,000 hours of investigation experience shall have been as a criminal or civil investigator with a federal, state, county or municipal law enforcement agency.

(3) In accordance with Subsections 58-64-302(1)(f)(iii) and 58-64-302(2)(f)(iii), the college education and investigation experience may be combined in the ratio of 2000 hours of investigation experience for one year as a matriculated student in an accredited bachelor's degree program.

(4) In accordance with Subsections 58-64-302(1)(g) and 58-64-302(2)(g), the deception detection training program shall consist of:

(a) graduation from a course of instruction in deception detection in a school accredited by the American Polygraph Association; and

(b) passing the Utah Deception Detection Theory Exam with a score of at least 75%.
R156-64-302c. Qualifications for Licensure - Examination Requirements.

In accordance with Section 58-1-309, applicants shall pass the Utah Deception Detection Examiners Law and Rule Examination with a score of at least 75%.

R156-64-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 64 is established by rule in Section R156-1-308.

(2) Renewal procedures shall be in accordance with Section R156-1-308.

R156-64-304. Continuing Education.

(1) In accordance with Section 58-1-203(7) and 58-1-308(3)(b), there is created a continuing education requirement as a condition for renewal or reinstatement of a license in the classification of deception detection examiner.

(2) Continuing education shall consist of 60 hours of qualified continuing professional education in each preceding two year period of licensure or expiration of licensure.

(3) If a renewal period is shortened or extended to effect a change of renewal cycle, the continuing education hours required for that renewal period shall be increased or decreased accordingly as a pro rata amount of the requirements of a two-year period.

(4) Qualified continuing professional education shall consist of the following:

(a) A minimum of 30 hours shall be from institutes, seminars, lectures, conferences, workshops, various forms of mediated instruction directly relating to deception detection; and

(b) 30 hours may be in the following college courses with one college credit being equal to 15 hours;

(i) psychology;

(ii) physiology;

(iii) anatomy; and

(iv) interview and interrogation techniques.

(5) A deception detection examiner who instructs an approved course shall be given double credit for the first presentation.

(6) A licensee shall be responsible for maintaining competent records of completed qualified continuing professional education for a period of four years after close of the two year period to which the records pertain.

R156-64-306. Clear Criminal History.

(1) In accordance with Section 58-1-203(7) and 58-1-308(3)(b), there is created a clear criminal history requirement as a condition for renewal or reinstatement of a license issued under this chapter.

(2) Each applicant shall submit documents and fees as set forth in Section R156-64-302a.

R156-64-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) not immediately terminating the examination upon the request of the examinee;

(2) not conducting a pre-examination review with the examinee reviewing each question word for word prior to conducting the examination;

(3) attempting to determine truth or deception on matters or issues not discussed with the examinee during the pre-examination review;

(4) basing decisions concerning truthfulness or deception upon less than:

(a) two repetitions of each question during pre-employment or routine examinations;

or

(b) three repetitions of each question during specific or criminal examinations;

(5) conducting an examination if the examinee is not physically present and aware that an examination is being conducted;

(6) using irrelevant and relevant testing techniques in other than pre-employment and periodic testing, without prior approval of the division in collaboration with the board;

(7) using a polygraph instrument that does not record as a minimum:

- (a) properly functioning respiration;
- (b) galvanic skin response; and
- (c) cardiovascular response;

(8) conducting more than five deception detection examinations in a 24 hour period;

(9) conducting an examination of less than a 90 minute duration;

(10) conducting a pre-employment or periodic examination of less than a 60 minute duration;

(11) not audibly recording all criminal/specific examinations and informing the examinee of such recording prior to the examination;

(12) during a pre-employment pre-test interview or actual examination, asking any questions concerning the subject's sexual attitudes, political beliefs, union sympathies or religious beliefs unless there is demonstratable overriding reason;

(13) publishing, directly or indirectly, or circulating any fraudulent or false statements as to the skill or method of practice of any examiner;

(14) dividing fees or agreeing to split or divide the fees received for deception detection services with any person for referring a client;

(15) refusing to render deception detection services to or for any person on account of race, color, creed, national origin, sex or age of such person;

(16) conducting an examination:

- (a) on a person who is under the influence of alcohol or drugs;
- (b) on a person who is pregnant except for a voice stress examination;
- (c) on a person who is under the age of 14 without written permission from their parent or guardian; or
- (d) on a person who is under medical counseling without written permission from a health care provider;

(17) not providing at least 20 seconds between the end of one question and the beginning of the next, except when the examiner is utilizing a voice stress analyzer;

(18) not using a numerical scoring system in all specific examinations;

(19) not creating and maintaining a record for every examination administered;

(20) creating records not containing at a minimum the following:

- (a) all charts on each subject properly identified by name and date and signed by the examinee;
- (b) an index, either chronological or alphabetical, listing:
 - (i) the names of all persons examined;
 - (ii) the type of exam conducted;
 - (iii) the date of the exam;
 - (iv) the name of the examiner;
 - (v) the file number in which the records are maintained;
 - (vi) the examiner's written opinion of the test results; and
 - (vii) the time the examination began and ended;
- (c) all written reports or memoranda of verbal reports;
- (d) a list of all questions asked while the instrument was recording;
- (e) background information elicited during the pre-test interviews;
- (f) a form signed by the examinee agreeing to take the examination after being informed of his or her right to refuse;
- (g) the following statement, dated and signed by the examinee: "If I have any reason to believe that the examination was not completely impartial, fair and conducted professionally, I am aware that I can report it to the Division of Occupational and Professional Licensing";
- (h) any recordings made of the examination; and
- (i) documentation of instrument calibration on a quarterly basis including a calibration chart, except for computerized deception detection instruments or computerized voice stress analyzers; and

(21) not maintaining records of all deception detection examinations for a minimum of three years.

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DECEPTION DETECTION EXAMINERS
LICENSING ACT RULES

R156-64
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